IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

MFA.No. 48 of 2002()

OPMV.592/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA

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APPELLANT: PETITIONER IN OP(MV)

SURENDRAN, S/O.SUBRAN,
KEEZHATHARA HOUSE, WEST MURINGOOR-
THEKKUMMURI VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.P.V.BABY

RESPONDENTS: RESPONDENTS IN OP (MV).

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1. MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION, FORT,
TRIVANDRUM.

2. RAJAPPAN, S/O.KARUNAKARAN,
PUTHAN KIZHAKKEDATH HOUSE, ENGAKKAD DESOM,
KARUMATHRA VILLAGE.

R1 BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J

M.F.A.No.48 of 2002

Dated, this the 6th day of September, 2007

JUDGMENT

This appeal is filed by the petitioner in O.P.(MV) No.592/1997 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda. At about 9 a.m. on 5.11.1996 the petitioner was travelling in a stage carriage bus owned by the first respondent and driven by the second respondent. It met with an accident and petitioner sustained serious injuries. He filed Original Petition claiming compensation to the tune of Rs.50,000/-. The Tribunal after trial awarded an amount of Rs.28,000/- as compensation. Complaining that the quantum of compensation is inadequate the petitioner himself has filed this appeal.

2. The findings of the Tribunal that the appellant/petitioner sustained injuries in a motor vehicle accident and that the accident occurred due to the negligence of the second respondent in the Original Petition have become final and conclusive. The appellant had produced a disability certificate issued by the doctor showing that he was having a permanent disability of 20%. But the Tribunal fixed the disability as 5% and awarded only Rs.12,250/- towards loss of earning power due to disability. Tribunal awarded an amount of Rs.3,600/- towards loss of earning power for three months; Rs.500/- towards transportation expenses and Rs.1,500/- towards treatment expenses. Towards pain and suffering appellant was

awarded only Rs.5,000/- which is inadequate. The amounts awarded for treatment expenses and pain and suffering are inadequate. Towards loss of amenities, discomfort and inconvenience only an amount of Rs.4,650/- was awarded. That is also very low. Considering all aspects of the matter especially in view of the fact that there was amputation of left foot's 5th toe , calcanium fracture left and fracture tarsal bones, I am of the view that an amount of Rs.5,000/- more for pain and suffering and Rs.15,000/- for loss of amenities can be awarded. So the appellant is entitled to get an additional compensation of Rs.20,000/-

In the result, M.F.A. is allowed in part. An award is passed in favour of the appellant allowing him to recover an amount of Rs.20,000/- more in addition to the amount already awarded by the Tribunal with 6% interest from the date of petition till the date of realisation. The amount shall be deposited by the first respondent. On deposit of the amount the appellant can withdraw the entire amount.

K. PADMANABHAN NAIR
JUDGE

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K.PADMANABHAN NAIR, J.

M.F.A.No.48 of 2002

JUDGMENT

6TH SEPTEMBER., 2007